

Farm Service Agency, USDA

§ 764.251

§ 764.155 Security requirements.

An FO loan must be secured:

- (a) In accordance with §§ 764.103 through 764.106;
- (b) At a minimum, by the real estate being purchased or improved.

§§ 764.156–764.200 [Reserved]

Subpart E—Beginning Farmer Downpayment Loan Program

§ 764.201 Beginning Farmer Downpayment loan uses.

Beginning Farmer Downpayment loan funds may be used to partially finance the purchase of a family farm by an eligible beginning farmer.

§ 764.202 Eligibility requirements.

The applicant must:

- (a) Comply with the general eligibility requirements established at § 764.101 and the FO eligibility requirements of § 764.152; and
- (b) Be a beginning farmer.

§ 764.203 Limitations.

- (a) The applicant must:
 - (1) Comply with the general limitations established at § 764.102; and
 - (2) Provide a minimum downpayment of 10 percent of the purchase price of the farm.
- (b) The purchase price or appraised value of the farm, whichever is lower, must not exceed \$250,000.
- (c) Beginning Farmer Downpayment loans will not exceed 40 percent of the lesser of the purchase price or appraised value of the farm to be acquired.
- (d) Financing provided by the Agency and all other creditors must not exceed 90 percent of the lesser of the purchase price or appraised value of the farm and may be guaranteed by the Agency under part 762 of this chapter.

§ 764.204 Rates and terms.

- (a) *Rates.* The interest rate for Beginning Farmer Downpayment loans shall be 4 percent.
- (b) *Terms.* (1) The Agency schedules repayment of Beginning Farmer Downpayment loans in equal, annual installments over a term not to exceed 15 years.

- (2) The non-Agency financing must have an amortization period of at least 30 years and cannot have a balloon payment due within the first 15 years of the loan.

§ 764.205 Security requirements.

A Beginning Farmer Downpayment loan must:

- (a) Be secured in accordance with §§ 764.103 through 764.106;
- (b) Be secured by a lien on the property being acquired with the loan funds and junior only to the party financing the balance of the purchase price.

§§ 764.206–764.250 [Reserved]

Subpart F—Operating Loan Program

§ 764.251 Operating loan uses.

- (a) Except as provided in paragraph (b), OL loan funds may only be used for:
 - (1) Costs associated with reorganizing a farm to improve its profitability;
 - (2) Purchase of livestock, including poultry, farm equipment, quotas and bases, and cooperative stock for credit, production, processing or marketing purposes;
 - (3) Farm operating expenses, including, but not limited to, feed, seed, fertilizer, pesticides, farm supplies, repairs and improvements which are to be expensed, cash rent and family living expenses;
 - (4) Scheduled principal and interest payments on term debt provided the debt is for authorized FO or OL purposes;
 - (5) Other farm needs;
 - (6) Costs associated with land and water development, use, or conservation;
 - (7) Loan closing costs;
 - (8) Costs associated with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 667) if the applicant can show that compliance or non-compliance with the standards will cause substantial economic injury;
 - (9) Borrower training costs required or recommended by the Agency;
 - (10) Refinancing farm-related debts other than real estate to improve the

farm's profitability provided the applicant has refinanced direct or guaranteed OL loans four times or fewer and one of the following conditions is met:

(i) A designated or declared disaster caused the need for refinancing; or

(ii) The debts to be refinanced are owed to a creditor other than the USDA;

(11) Costs for minor real estate repairs or improvements, provided the loan can be repaid within 7 years.

(b) Lo-Doc funds approved under:

(1) Section 764.51(c)(3)(i) may be used for any OL purpose except for refinancing debt under paragraph (a)(10);

(2) Section 764.51(c)(3)(ii) may only be used for expenses under paragraph (a)(3).

§ 764.252 Eligibility requirements.

The applicant:

(a) Must comply with the general eligibility requirements established at § 764.101.

(b) And anyone who will sign the promissory note, except as provided in paragraph (c) of this section, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.

(c) And anyone who will sign the promissory note, may receive direct OL loans to pay annual farm operating and family living expenses, provided that the applicant meets all other applicable requirements under this part, if the applicant:

(1) Received a write-down under section 353 of the Act;

(2) Is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code; or

(3) Received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for the county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FLP loans prior to the beginning date of the incidence period of a Presidentially-designated emergency and received debt forgiveness on that debt within 3 years after the designation of such emergency meet this exception.

(d) And in the case of an entity, the entity must be:

(1) Controlled by farmers engaged primarily and directly in farming in the United States; and

(2) Authorized to operate the farm in the State in which the farm is located.

(e) And anyone who will sign the promissory note, may close an OL loan in no more than 7 calendar years, either as an individual or as a member of an entity, except as provided in paragraphs (e)(1) through (4) of this section. The years may be consecutive or non-consecutive, and there is no limit on the number of loans closed in a year. Youth loans are not counted toward this limitation. The following exceptions are applicable.

(1) This limitation does not apply if the applicant and anyone who will sign the promissory note is a beginning farmer.

(2) This limitation does not apply if the applicant's land is subject to the jurisdiction of an Indian tribe, the loan is secured by one or more security instruments subject to the jurisdiction of an Indian tribe, and commercial credit is generally not available to such farm operations.

(3) If the applicant, and anyone who will sign the promissory note, has closed direct OL loans in four or more previous calendar years as of April 4, 1996, the applicant is eligible to close OL loans in any three additional years after that date.

(4) On a case-by-case basis, may be granted a one-time waiver of OL term limits for a period of 2 years, not subject to administrative appeal, if the applicant:

(i) Has a financially viable operation;

(ii) And in the case of an entity, the members holding the majority interest, applied for commercial credit from at least two lenders and were unable to obtain a commercial loan, including an Agency-guaranteed loan; and

(iii) Has successfully completed, or will complete within one year, borrower training. Previous waivers to the borrower training requirements are not applicable under this paragraph.